

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1242 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

( No. 1 to 5 NO )

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SURAT BREADING TOP

MANUFACTURERS CO OP SOC. LTD

Versus

STATE OF GUJARAT

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Appearance:

MR YN RAVANI for Petitioner

Ld. Govt. Counsel Mr.S.P.Dave for the Respondent

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 27/02/97

ORAL JUDGEMENT

The petitioner before me happens to be a Co-operative Society. The land in question would be the land bearing Survey No. 86, Part-II, admeasuring about 4 Acres & 29 Gunthas, along with the land bearing Survey No. 86, Part-I, admeasuring about 4 Acres & 30 Gunthas, situated at Village Tunki under Choryasi taluka of the Surat district. The petitioner Society had purchased the

land as indicated above from Faramji Palia and Barjorji Palia and later on the petitioner Society wanted to utilise the land for the purpose of carrying on the activities of the members. The owner of the land had applied under Section 20 of the ULC Act, 1976 and had also filled in the form under Section 6 of the Act. The petitioner Society also had submitted the necessary application under Section 20(1) of the ULC Act, 1976 to the State as the original land lords had passed away during the pendency of the proceedings. The prayer of the petitioner Society came to be turned down, placing reliance upon the Supreme Court pronouncement in case of S. Vasudevan Vs. State of Karnataka & Ors, J.T. 1993 (2) S.C. Pg. 465. It is therefore that the petitioner Society is before me challenging the said orders.

Ld. Counsel Mr. Yogesh Ravani who appears for the Petitioner Society draws my attention to the pronouncement of this Court in Special Civil Application No. 8655 of 1996 decided on December 24, 1996. A similar question had arisen for the consideration of the Ld. Single Judge in that matter. It was pointed out before the said Court also that, the law laid down by the Supreme Court in case of S. Vasudevan (supra) does not hold the field in view of the later decision of the Supreme Court in case of T.R. Thandur Vs. Union of India & Ors, J.T. 1996 (4) S.C. pg.14. The Court has accepted the contention.

It is abundantly clear upon making a reference to the above said two pronouncements of the Supreme Court that, the law laid down in the earlier decision, that is in case of S. Vasudevan (supra) does not hold the field. The view has been taken by the Supreme Court that the lands which are exempted under Section 20(1) (b) of the Act can be transferred since they are not exempted from the application of Chapter III of the Act. In view of this position, the prayer of the petitioner could not have been turned down on the basis of the say of the Supreme Court in earlier pronouncement of S. Vasudevan (supra).

The petition therefore requires a partial recognition and, after quashing & setting aside the orders in question, the matter requires to be remitted to the State Government for the appropriate decision. I order accordingly.

The impugned orders stand retransmitted to the State Government for the appropriate decision, according to law and on merits, after affording a reasonable

opportunity of being heard to the parties. Rule is made  
absolute to the above said extent, with no order as to  
cost. D.S. permitted.

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